

ROADMAP

Title of the initiative: **Revision of Directive 1999/32/EC on the sulphur content of certain liquid fuels**
Type of initiative (CWP/Catalogue/Comitology): catalogue
Lead DG: ENV C.3
Expected date of adoption of the initiative (month/year): December 2010
Date of modification: 26 March 2010
Version No: 2

Initial IA screening & planning of further work

A. Context and problem definition

(i) What is the political context of the initiative?

Article 7 of the Directive 1999/32/EC as revised by Directive 2005/33/EC calls on the Commission to submit a progress report to the Council and Parliament by end 2008. on its implementation and to bring forward appropriate proposals, inter alia related to stricter limit values for the sulphur content of a range of liquid fuels covered by the Directive, notably marine fuels.

The ongoing revision of the Directive takes place in the context of a continuing widespread exceedance of air quality standards (see below). The initiative to revise the Directive will offer an opportunity to transpose stricter limit values related to the sulphur content of fuels applying from 2015 onwards as agreed at the International Maritime Organization, i.e. when it decided in October 2008 to amend the MARPOL Annex VI governing the Baltic Sea, North Sea and Channel sulphur emission control areas and other (air) pollution issues. Following its consecutive amendments, the Directive may also become a potential candidate for codification, possibly as part of the Commission's Simplification Rolling Programme.

(ii) How does this initiative relate to past and possible future initiatives, and to other EU policies?

The need for further reductions on emissions from ships and the sulphur content of liquid fuels was identified in the 2005 Thematic Strategy on Air Pollution (TSAP -Clean Air For Europe programme), as well as in the 2002 EU strategy to reduce atmospheric emissions from seagoing ships.

What are the main problems identified?

1. There continue to be wide-spread exceedances of existing health based air quality limits across the EU and associated pollution loads aimed at preventing damage to natural ecosystems and loss of biodiversity from acidification, eutrophication and exposure to photochemical oxidants (as identified in the above mentioned TSAP). Ship emissions of sulphur oxides (SO_x), nitrogen oxides (NO_x), and particulate matter significantly contribute to all of these problems. Projections show that ship emissions in EU sea areas could be as important as emissions of SO_x and NO_x from all land based sources in the EU by 2020. Their reduction could assist in achieving and further strengthening of standing national emissions ceilings as called for by the 2005 TSAP – thereby facilitating improved land-based air quality concentrations through reduced background concentrations. Whilst the IMO agreement already pursues the significant reduction of SO_x emissions from ships, there is no adequate compliance regime to ensure reductions will be delivered. Reductions are neither ensured because not all Member States have ratified the original MARPOL Annex VI protocol from 1997. Hence, as was the case in the past, transposition of international agreements into EU law will ensure compliance through harmonized legal provisions that bring them within the remit of EU's Port state control system.

2. Problems have been identified regarding the implementation and enforcement of the Directive's provisions particularly regarding the quality of marine fuels. There is also scope to clarify

ambiguous legal provisions and improve the enforcement by Member States competent authorities the quality of which diverges markedly between Member States.

Who is affected?

Depending on the outcome of the review and the ultimate scope of the amendment, the initiative could generate significant benefits for EU citizens and environments exposed to poor air quality, and for Member States currently facing difficulties meeting mandatory air quality standards. Equally, there may be some benefits MS having difficulties in complying with certain the 2010 NEC targets. Others potentially benefiting from the outcome of the review include owners and operators of ships visiting EU ports and other users of heavy fuel oil or gas oil (through possible better controls on the placing on the market of inferior fuels).

(i) Is EU action justified on grounds of subsidiarity?

The Directive governs the placing on the market and the use of certain types of fuels in the territories of the Member States and sea areas with an obvious internal market dimension that must be addressed at EU level. In addition, air pollution emitted from the combustion of sulphur containing fuels travels across national borders again reinforcing the need for collective action at the EU level. The International nature of the shipping industry requires common rules to be established in all of the Member States so as to prevent unequal treatment and distortions of the internal market.

(ii) Why can the objectives of the proposed action not be achieved sufficiently by Member States (necessity test)?

Idem supra.

(iii) As a result of this, can objectives be better achieved by action by the Community (test of EU Value Added)?

Idem supra.

B. Objectives of EU initiative

What are the main policy objectives?

To reduce the adverse impacts on human health and the environment due to emissions resulting shipping and other uses of heavy fuel oils covered by the Directive; to simplify regulation where possible.

Do the objectives imply developing EU policy in new areas or in areas of strategic importance?

No.

C. Options

(i) What are the policy options?

The (ongoing) review is set to consider a range of options for reducing emission from shipping and/or related to the use of fuels covered by the Directive including a business as usual (no change) scenario, the alignment of EU law with internationally agreed standards, as well as possible options for improving the present regulation and reducing the associated administrative complexities where possible or appropriate.

(ii) What legislative or 'soft law' instruments could be considered?

The (ongoing) review is expected to also consider market-based mechanisms including those called for by Article 7 of the Directive.

(iii) Would any legislative initiatives go beyond routine up-date of existing legislation?

To be determined by the ongoing review and associated impact assessment.

Does the action proposed in the options cut across several policy areas or impact on action taken/planned by other Commission departments?

The initiative will ensure any overlap or contradiction with other policy areas is avoided whilst rather aiming at complementarily, e.g. aiming at contributing to the objectives of ancillary policies such as the Ambient Air Quality Directives and the national emissions ceilings Directive (NECD).

Explain how the options respect the proportionality principle In the Impact Assessment, the cost effectiveness, costs and benefits as well as potential other impacts will be presented for each of the various options.

These elements will be addressed in the ongoing review and its associated impact assessment which will be conducted in accordance with the standing guidelines impact assessments applying to Commission studies.

D. Initial assessment of impacts

What are the significant impacts likely to result from each policy option (cf. list of impacts in the Impact Assessment Guidelines pages 32-37), even if these impacts would materialise only after subsequent Commission initiatives?

Possible options may contribute significantly towards the attainment of EU present (but also future) air quality limits and national emission ceilings, hence yielding significant health and environmental benefits within the EU. The marketing of higher quality fuels may also generate economic and safety benefits through reduced engine failures resulting from receiving sub-standard fuel which may lead to engine failure and risk of accident whilst at sea. The present review is not expected to generate further incremental costs associated with the marketing of cleaner fuels, however, also considering the fact that such components under review relate to the transposition of measures already agreed at international level.

Could the options have impacts on the EU-Budget (above 5 Mio €) and/or should the IA also serve as the ex-ante evaluation, required by the Financial Regulation?

No.

Could the options have significant impacts on (i) simplification, (ii) administrative burden or on (iii) relations with third countries?

Possible positive impacts in (i) and (ii) may be generated whilst relations with third countries are not expected to be negatively impacted.

E. Planning of further impact assessment work

When will the impact assessment work start?

The work started already in 2009 with the launch of several technical studies most of which are now complete.

(i) What information and data are already available?

Several studies, MSs reporting, publications in relevant press, reports by other relevant parties.

(ii) Will this impact assessment build on already existing impact assessment work or evaluations carried out?

Yes, it will partly build on the work done for the NEC Directive and the Thematic Strategy on Air pollution as to the need to reduce air pollution.

(iii) What further information needs to be gathered?

Two relevant studies still ongoing.

(iv) How will this be done (e.g. internally or by an external contractor) and by when?

April and June 2010.

(v) What type and level of analysis will be carried out (cf. principle of proportionate analysis)?

See above.

Which stakeholders & experts have been/will be consulted, how and at what stage?

Regular consultations have been ongoing with relevant parts of maritime industry, NGOs, Business associations, and Member States. Further consultations are envisaged during 2010 prior to finalizing the review. These will include an 8-week internet based consultation that will be conducted prior to the submission of the draft impact assessment to the Commission's Impact Assessment Board.